

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Thomas Holman  
Bankruptcy Judge  
Modesto, California

**June 1, 2004 at 9:30 a.m.**

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1. 04-91006-A-7 ANTHONY YBARRA & LISA TORRES  
HEARING ON ORDER TO  
SHOW CAUSE RE DISMISSAL, OR  
IMPOSITION OF SANCTIONS FOR  
FAILURE OF DEBTORS TO PAY  
FILING FEE INSTALLMENT  
(\$52.00 DUE APRIL 14,  
2004)  
4/27/04 [8]

**Tentative Ruling:** None.

2. 04-91006-A-7 ANTHONY YBARRA & LISA TORRES  
HEARING ON ORDER TO  
SHOW CAUSE RE DISMISSAL,  
CONVERSION OR IMPOSITION OF  
SANCTIONS FOR FAILURE OF  
DEBTORS TO ATTEND THE  
SECTION 341 MEETING ON  
APRIL 22, 2004  
4/29/04 [9]

**Tentative Ruling:** None.

3. 04-91636-A-7 CHARLES & DEBRA REYNOLDS  
HEARING ON ORDER TO  
SHOW CAUSE RE DISMISSAL OF  
CASE AS TO CHARLES REYNOLDS  
4/30/04 [4]

**Tentative Ruling:** None.

4. 04-91061-A-7 GINA R. HALL  
HEARING ON ORDER TO  
SHOW CAUSE RE DISMISSAL,  
CONVERSION OR IMPOSITION OF  
SANCTIONS FOR FAILURE OF  
DEBTOR AND/OR DEBTOR'S  
ATTORNEY TO ATTEND THE  
SECTION 341 MEETING ON  
APRIL 22, 2004  
4/29/04 [7]

**Tentative Ruling:** None.

5. 04-91090-A-7 ALMA B. PEPELIS HEARING ON ORDER TO  
SHOW CAUSE RE DISMISSAL OR  
IMPOSITION OF SANCTIONS FOR  
FAILURE OF DEBTOR TO PAY  
FILING FEE INSTALLMENT  
(\$52.00 DUE ON APRIL 19, 2004)  
5/5/04 [19]

**Tentative Ruling:** None.

6. 04-90694-A-7 PATRICIA LOU MONACO HEARING ON ORDER TO  
SHOW CAUSE RE DISMISSAL,  
AND/OR IMPOSITION OF  
SANCTIONS FOR FAILURE TO  
TENDER FEES OR AN  
APPLICATION TO PAY FEES IN  
INSTALLMENTS WITH  
BANKRUPTCY PETITION  
4/30/04 [21]

**Tentative Ruling:** None.

7. 04-91105-A-7 STANLEY CAMPBELL HEARING ON APPLICATION  
SF #2 OF CHAPTER 7 TRUSTEE FOR  
APPOINTMENT OF REAL ESTATE  
BROKER  
5/3/04 [9]

**Disposition Without Oral Argument:** The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved pursuant to 11 U.S.C. § 327(a) and the trustee is authorized to employ Marian Norris of Century 21 M&M Associates as a real estate broker to provide valuation, marketing and/or sale services to the trustee. As set forth in the motion, compensation will be either by hourly fees approved through an application for compensation under 11 U.S.C. § 330, or as part of a court-approved sale.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

8. 03-93323-A-7 BENNY & PROCSY YADAO HEARING ON DEBTORS' MOTION  
SPC #4 TO DISMISS CHAPTER 7  
PROCEEDING  
5/4/04 [243]

**Tentative Ruling:** None.

9. 03-93323-A-7 BENNY & PROCSY YADAO HEARING ON APPLICATION  
SF #7 OF SUNTAG AND FEUERSTEIN  
FOR COMPENSATION AND  
REIMBURSEMENT OF EXPENSES  
5/12/04 [249]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

10. 03-93323-A-7 BENNY & PROCSY YADAO HEARING ON APPLICATION  
SF #8 OF TRUSTEE FOR COMPENSATION  
AND REIMBURSEMENT OF  
EXPENSES  
5/12/04 [250]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

11. 03-91428-A-11 TETON FLY REELS, INC. CONT. HEARING ON FIRST  
CWC #6 APPLICATION OF ALTMAN &  
COLLINS LLP AS ATTORNEYS  
FOR TRUSTEE FOR INTERIM  
COMPENSATION AND  
REIMBURSEMENT OF EXPENSES  
4/5/04 [176]  
[FIRST AMENDED APPLICATION  
FILED 4/16/04[[188]

**Disposition Without Oral Argument:** This matter continued from May 4, 2004 so that the full notice period could run on the amended application. The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$16,177.50 in fees and costs. On April 7, 2003, the debtor filed a chapter 11 petition. The court appointed a chapter 11 trustee on September 2, 2003. This court authorized the employment of counsel for the chapter 11 trustee on October 3, 2003 effective September 2, 2003. The chapter 11 trustee's attorney now seeks compensation for the period of September 2, 2003 to March 31, 2004, equaling \$16,177.50 as fees, and \$192.23 as costs.

As set forth in the attorney's application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Applicant shall submit an order that conforms to the court's ruling.

12. 03-91428-A-11 TETON FLY REELS, INC.  
CWC #7

CONT. HEARING ON SECOND  
APPLICATION FOR ALLOWANCE  
OF INTERIM COMPENSATION TO  
ACCOUNTANT FOR THE ESTATE  
4/5/04 [180]  
[AMENDED SECOND APPLICATION  
FILED 4/16/04][189]

**Disposition Without Oral Argument:** This matter continued from May 4, 2004 so that the full notice period could run on the amended application. The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$15,149.50 in fees and costs. On April 7, 2003, the debtor filed a chapter 11 petition. The court appointed a chapter 11 trustee on September 2, 2003. This court authorized the employment of the accountant for the chapter 11 trustee on October 3, 2003 effective September 2, 2003. The chapter 11 trustee's accountant now seeks compensation for the period of September 8, 2003 to March 31, 2004, equaling \$15,149.50 as fees, and \$0.00 as costs.

As set forth in the application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Counsel for the chapter 11 trustee shall submit an order that conforms to the court's ruling.

13. 03-91428-A-11 TETON FLY REELS, INC.  
CWC #8

CONT. HEARING ON FIRST  
APPLICATION OF TRUSTEE FOR  
INTERIM COMPENSATION AND  
REIMBURSEMENT OF EXPENSES  
4/5/04 [184]  
[FIRST AMENDED APPLICATION  
FILED 4/16/04] [190]

**Disposition Without Oral Argument:** This matter continued from May 4, 2004 so that the full notice period could run on the amended application. The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$18,519.11 in fees and costs. On April 7, 2003, the debtor filed a chapter 11 petition. The court appointed a chapter 11 trustee on September 2, 2003. The chapter 11 trustee now seeks compensation for the period of September 2, 2003 to March 31, 2004, equaling \$15,612.70 as his statutory fee, \$596.41 as out of pocket expenses, and \$2,310.00 in bookkeeping expenses.

As set forth in the application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Counsel for the chapter 11 trustee shall submit an order that conforms to

the court's ruling.

14. 04-90834-A-7 KENNETH & MELISSA DIAZ HEARING ON TRUSTEE'S  
MDM #1 OBJECTION TO DEBTORS'  
EXEMPTIONS  
4/27/04 [8]

**Disposition Without Oral Argument:** The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The objection is sustained. Debtors have attempted to exempt their 1985 pontoon boat and trailer pursuant to California Code of Civil Procedure Section 704.210 which provides: "Property that is not subject to enforcement of a money judgment is exempt without making a claim." Cal Code of Civ. Proc. § 704.210 (West 1987 and Supp. 2004). That section does not apply to the property at issue because that type of property is subject to execution in California.

The trustee shall submit an order that conforms to the court's ruling.

15. 02-92052-A-11 MODESTO TECHNICAL HEARING ON MOTION FOR  
DCJ #4 COLLEGE, INC. FINAL APPROVAL OF  
COMPENSATION OF ATTORNEY  
FOR DEBTOR IN POSSESSION  
4/26/04 [275]

**Disposition Without Oral Argument:** The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$4,460.00 in fees and costs. On May 29, 2002, the debtor filed a chapter 11 petition. The court appointed a chapter 11 trustee on October 23, 2002. This court authorized the employment of counsel for the then debtor-in-possession on July 10, 2002. The debtor's attorney now seeks compensation for the period of July 10, 2002 to October 23, 2002, equaling \$4,460.00 as fees, and \$0.00 as costs.

As set forth in the attorney's application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Applicant shall submit an order that conforms to the court's ruling.

16.	04-91452-A-7	CHRISTOPHER & AUDREY FW #1	PARSONS	HEARING ON MOTION TO ABANDON REAL PROPERTY 4/23/04 [5]
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**Disposition Without Oral Argument:** The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The motion is granted and the trustee shall abandon the real property located at 1449 Bolton Lane, Manteca California. The evidence provided by debtors shows that the equity in the property after deduction of all non-avoidable liens is less than the amount of debtors' claimed exemption. The equity therefore cannot benefit the chapter 7 estate. The property is of inconsequential value to the estate.

Counsel for debtors shall submit an order that conforms to the court's ruling.

17.	03-90259-A-7	JEFFERSON & MISTEE DOLPHIN 03-9051 COUNTY OF MARIN VS.	HEARING ON NOTICE OF INTENT TO DECLARE BANKRUPTCY CLAIM OF CREDITOR MARIN COUNTY NONDISCHARGEABLE, TO APPROVE STIPULATION FOR JUDGMENT UNDER 11 U.S.C. SECTION 523 AND WAIVING CLAIMS UNDER 11 U.S.C. SECTION 727, AND DISMISSAL OF ACTION 4/14/04 [17]
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**Tentative Ruling:** None.

18.	02-91174-A-7	MAJISTEE CORPORATION JTN #1	HEARING ON MOTION FOR APPROVAL OF SALE OF PERSONAL PROPERTY 4/30/04 [278]
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**Tentative Ruling:** None.

19.	03-94077-A-7	TONY YOUHANA MHK #6	HEARING ON VERIFIED MOTION BY MEEGAN, HANSCHU & KASSEN BROCK FOR A FIRST AND FINAL ALLOWANCE OF COMPENSATION AS COUNSEL FOR TRUSTEE 4/22/04 [49]
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**Disposition Without Oral Argument:** The failure of any party in interest to file timely written opposition as required by this local rule may be

considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$2,841.57 in fees and costs. On October 14, 2003, the debtor filed a chapter 7 petition. This court authorized the employment of counsel for the trustee on November 12, 2003 effective as of October 23, 2003. The trustee's attorney now seeks compensation for the period of October 23, 2003 to April 20, 2004, equaling \$2,612.00 as fees, and \$229.57 as costs.

As set forth in the attorney's application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Applicant shall submit an order that conforms to the court's ruling.

20.	04-91185-A-7	MELVIN WARD &	HEARING ON MOTION TO
	MSN #1	ASIZA-LEE WARD-HALL	ABANDON REAL PROPERTY
			4/6/04 [5]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

21.	01-92886-A-11	MICHAEL HAT	HEARING ON FIRST AND
	PMZ #1		FINAL FEE APPLICATION OF
			PMZ REAL ESTATE AS
			CHAPTER 11 TRUSTEE'S REAL
			ESTATE BROKER
			5/10/04 [2670]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

22.	01-92886-A-11	MICHAEL HAT	HEARING ON TRUSTEE'S
	GSMD #14		MOTION TO MODIFY STAY OF
			ORDER APPROVING SALE OF
			CAPELLO WINERY TO SHARON
			DIAMANTE
			5/4/04 [2661]

**Tentative Ruling:** None.

23. 01-92886-A-11 MICHAEL HAT  
FWP #15

HEARING ON MOTION OF  
FELDERSTEIN FITZGERALD  
WILLOUGHBY & PASCUZZI LLP  
FOR (1) SEVENTH INTERIM  
ALLOWANCE OF ATTORNEY'S  
FEES AND REIMBURSEMENT OF  
EXPENSES AS COMM. COUNSEL  
AND (2) ORDER AUTHORIZING  
PAYMENT OF APPROVED INTERIM  
FEES AND COSTS  
5/4/04 [2649]

**Disposition Without Oral Argument:** Creditor Bank of the West had filed a limited opposition to this motion but withdrew it on May 25, 2004. The failure of any other party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$76,932.20 in fees and costs. On July 20, 2001, the debtor filed a chapter 11 petition. This court authorized the employment of counsel for the unsecured creditors committee on October 2, 2001 retroactive to August 24, 2001. The committee's attorney now seeks compensation for the period of October 1, 2003 to March 31, 2004, equaling \$73,935.00 as fees, and \$2,997.20 as costs. As set forth in the attorney's application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Movant's request that the trustee pay previously approved but unpaid fees and costs totaling \$170,004.65 is also approved. The estate is or shortly will be in possession of approximately \$8,680,000 in unencumbered cash. Movant asserts without dispute that Bank of the West's replacement liens are oversecured and that the estate is not administratively insolvent.

Applicant shall submit an order that conforms to the court's ruling.

24. 01-92886-A-11 MICHAEL HAT  
FWP #16

HEARING ON MOTION OF  
PACIFIC MGMT. CONSULTING  
GROUP LLC FOR (1) SEVENTH  
INTERIM ALLOWANCE OF  
FEES AND REIMBURSEMENT OF  
EXPENSES AS BUSINESS AND  
FINANCIAL CONSULTANT; AND  
(2) ORDER AUTHORIZING  
PAYMENT OF APPROVED INTERIM  
FEES AND COSTS 5/4/04 [2655]

**Disposition Without Oral Argument:** Creditor Bank of the West had filed a limited opposition to this motion but withdrew it on May 25, 2004. The failure of any other party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR



9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved for a total of \$800.74 in fees and costs. On July 20, 2001, the debtor filed a chapter 11 petition. This court authorized the employment of the consultant for the unsecured creditors committee on October 2, 2001 retroactive to September 5, 2001. The committee's consultant now seeks compensation for the period of October 1, 2003 to April 30, 2004, equaling \$800.00 as fees, and \$0.74 as costs. As set forth in the application, these fees and costs are reasonable compensation for actual, necessary and beneficial services.

Movant's request that the trustee pay previously approved but unpaid fees and costs totaling \$10,441.37 is also approved. The estate is or shortly will be in possession of approximately \$8,680,000 in unencumbered cash. Movant asserts without dispute that Bank of the West's replacement liens are oversecured and that the estate is not administratively insolvent.

Counsel for the committee shall submit an order that conforms to the court's ruling.

25.	02-94793-A-7     SALVADOR & DOLORES SALAS MDM #1	HEARING ON TRUSTEE'S EX-PARTE MOTION TO EXTEND TIME TO FILE OBJECTION TO DISCHARGE (RULE 4004(B)) 04/20/04 [59]
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**Disposition Without Oral Argument:** The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The motion is granted and the time to file objections to discharge under 11 U.S.C. § 727 is extended to and including July 23, 2004. The trustee's need to further investigate the financial affairs of the debtors constitutes cause for enlargement of time under Bankruptcy Rule 4004(b). The court makes no finding at this time as to compliance or lack of compliance with 11 U.S.C. § 521.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

26.	03-93722-A-7     GEOFFREY BIDWELL & MRG #1            LORRIE ERSKINE	CONT. HEARING ON MOTION TO REOPEN CASE 4/5/04 [9]
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**Tentative Ruling:** None. This hearing was set only for the purpose of scheduling a hearing at which moving parties can appear for questioning by the court.

27. 03-93722-A-7 GEOFFREY BIDWELL & CONT. HEARING ON MOTION FOR  
03-9191 LORRIE ERSKINE MRG #2 RELIEF FROM ORDER DISMISSING  
RIC & MARIE GRANT VS. ADVERSARY PROCEEDING  
4/5/04 [15]

**Tentative Ruling:** None. This hearing was set only for the purpose of scheduling a hearing at which moving parties can appear for questioning by the court.

28. 03-93323-A-7 BENNY & PROCSY YADAO HEARING ON DEBTORS'  
SPC #5 MOTION TO FURTHER DEFER  
ENTRY OF ORDER GRANTING  
DISCHARGE  
5/18/04 [253]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

29. 95-94183-A-7 JOHN C. TEICHEIRA & HEARING ON OBJECTION  
CWC #9 SHAWNA D. TEICHEIRA TO TRUSTEE'S FIRST AND  
FINAL ACCOUNT FILED BY  
FRANK BORGES  
4/20/04 [115]

**Tentative Ruling:** None.

30. 04-90986-A-7 MARY ANN BAUKNECHT HEARING ON MOTION TO  
CLH #1 REQUIRE TRUSTEE TO ABANDON  
PROPERTY  
5/18/04 [18]

**Disposition Without Oral Argument:** Given the filing defects under the local bankruptcy rules, oral argument would not benefit the court in rendering a decision on this matter.

The motion to abandon is denied without prejudice, pursuant to LBR 9014-1(1). No monetary sanctions are imposed.

The motion fails to comply with LBR 9014-1(d)(6)(requiring evidence of the factual allegations contained in the motion) and LBR 9014-1(e)(2)(requiring movant to file proof of service of the motion). There is no evidence attached to the motion for any of the allegations made therein. Movant also failed to file proof of service of the motion. There is nothing to indicate that the motion was ever served.

The court will issue a minute order.

31. 01-92886-A-11 MICHAEL HAT  
03-9187 GSMD #2  
JOHN VAN CUREN, TRUSTEE VS.

HEARING ON PLAINTIFF'S  
MOTION TO COMPEL DEPOSITION  
OF JENNIFER HORAN  
5/21/04 [86]

THE CIT GROUP/EQUIPMENT  
FINANCING, INC.

**Disposition Without Oral Argument:** The court continued this matter to 3:00 p.m. today pursuant to order entered May 25, 2004. The matter is removed from this calendar.